

APPENDIX U2

Form U2

**I-405, SR520 to SR522 Stage 1
(Kirkland Stage 1)**

**Final Package Review – 15%
January 25, 2005**



Project Team

Congestion Relief & Bus Rapid Transit Projects

FORM U2

Reference Permit/Franchise No. _____

Assignment/Delegation of Utility Permit/Franchise Rights and Obligations

This is an Assignment of Rights and Delegation of Obligations by and between the Washington State Department of Transportation (STATE) and _____ (ASSIGNEE).

WHEREAS, STATE has entered into a Design-Build contract with ASSIGNEE for a highway improvement project on State Route _____; and

WHEREAS, the highway project requires the relocation of utilities that are located on state right of way either by permit or franchise; and

WHEREAS, STATE has determined that it is in the best interest of the state of Washington and traveling public to temporarily assign certain rights and delegate certain obligations to the ASSIGNEE under the Utility permit and/or franchise for the orderly, efficient and effective relocation of utility facilities for the State Route _____ highway project; and

WHEREAS, ASSIGNEE agrees that the STATE's temporary assignment of rights and delegation of obligations for the utility relocation for the State Route _____ highway project will facilitate orderly, efficient and effective utility relocation for the Design-Build project,

NOW, THEREFORE, IT IS MUTUALLY AGREED THAT:

The Washington State Department of Transportation does hereby assign, transfer and delegate unto _____, certain STATE rights in and certain STATE obligations under Permit/Franchise No. _____, dated _____, between the STATE and _____, Utility, in and for the consideration of the orderly, efficient and effective relocation of utility facilities located within state highway right of way in support of the highway construction project on State Route _____, Mile Post _____ to Mile Post _____ in _____ County, Washington.

A. The assignment of rights and delegation of obligations under the above noted Permit/Franchise pertain to General Provisions Nos. 3 and 9, as follows:

Section 3. Whenever necessary for the construction, repair, improvement, alternation, or relocation of all or any portion of said highway as determined by the Department, or in the event that the lands upon which said highway is presently located shall become a new highway or part of a limited access highway, or if the Department shall determine that the removal of any or all facilities from the said lands is necessary, incidental or convenient to the construction, repair, improvement, alteration, or relocation

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of any public road or street, the Utility shall, upon notice by the Department, relocate or remove any or all such facilities from said highway as may be required by the Department at the sole expense of the Utility to whom this document is issued or their successors and assigns.

Section 9. Upon failure, neglect, or refusal of the Utility to immediately do and perform any change, removal, relaying, or relocating of any facilities, or any repairs or reconstruction of said highway herein required of the Utility, the Department may undertake and perform such requirement, and the cost and expense thereof shall be immediately repaid to the Department by the Utility.

The STATE relinquishes all control over or power of revocation of General Provisions Nos. 3 and 9 in favor of ASSIGNEE. No other provisions of the Permit/Franchise are hereby assigned or delegated; the STATE retains all other rights and obligations under the Permit/Franchise.

B. This assignment of rights and delegation of obligations shall automatically terminate upon the STATE's issuance of a new Permit or Franchise for the relocated utility facilities.

C. ASSIGNEE agrees that it shall be solely responsible for any causes of action or claims, if any, that arise between the ASSIGNEE and a Utility during the term of this Assignment and Delegation; therefore, ASSIGNEE, its agents, employees, contractors, successors or assigns, will protect, save and hold harmless the State of Washington, its authorized agents and employees, from all claims, actions, costs, damages (both to persons and property), injuries or expenses of any nature whatsoever by reason of the acts or omissions of ASSIGNEE, its agents, employees, contractors, successors or assigns, arising out of or in connection with ASSIGNEE's or its agents', employees', contractors', successors' or assigns' acts or omissions related to this Assignment and Delegation; provided, that if the claims or damages are caused by or result from the concurrent acts or omissions of (a) State of Washington's authorized agents or employees and (b) ASSIGNEE, its agents, employees, contractors, successors or assigns, this indemnity provision shall be valid and enforceable only to the extent of the acts or omissions of ASSIGNEE, its agents, employees, contractors, successors or assigns. This provision shall survive the termination of this Assignment and Delegation.

D. The ASSIGNEE shall not assign or transfer the rights or obligations granted in this Assignment and Delegation in any manner whatsoever, unless the STATE consents thereto in writing.

E. The STATE shall provide a copy of this Assignment and Delegation to the Utility after it is executed by the STATE and ASSIGNEE.

F. The ASSIGNEE shall exercise its rights and obligations granted in this Assignment and Delegation in a reasonable and prudent manner.

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ASSIGNEE hereby accepts the rights and assumes the obligations from the STATE as set forth above.

STATE hereby assigns the rights and delegates the obligations as set forth above to ASSIGNEE.

Dated: _____

Dated: _____

NOTES:

- 1) Not all franchises/permits have the same General Provisions Nos. 3 & 9.
- 2) Although not appropriate for this assignment document, WSDOT should retain the right to review/approve any utility relocation. WSDOT may not necessarily approve the utility relocation prior to award of the contract but it can happen during the DB design work and prior to relocation work being done.